

## SECTION 29. TERMINATION

### 29-1. Definition.

**Termination:** A nondisciplinary act by a department director to end an employee's County employment for a valid reason. Examples of valid reasons for termination include those stated in Section 29-2.

### 29-2. Reasons for termination.

- (a) A department director may terminate the employment of an employee:
  - (1) who is a probationary employee;
  - (2) who has abandoned the employee's position by failing to report for work on 3 or more consecutive workdays without having approval for the absence;
  - (3) who is a temporary employee if:
    - (A) the employee's job performance or attendance record does not warrant retention of the employee, or
    - (B) the employee's services are no longer needed or wanted;
  - (4) who is a term employee whose term of employment has ended;
  - (5) who does not have a current license or certification required as a minimum qualification for the employee's occupational class;
  - (6) who fails to perform assigned duties in a satisfactory manner as indicated by receiving the lowest overall performance rating during an annual or interim performance evaluation under Section 11 of these Regulations;
  - (7) who has not returned to work within 30 calendar days after exhausting all FMLA leave and paid leave of any type, including leave from a sick leave donor program, because of an on-going medical or personal problem;
  - (8) who has used more than 12 consecutive months of LWOP; unless termination would conflict with State or Federal law;

- (9) who has an impairment not susceptible to resolution that causes the employee to be unable to perform the essential functions of the employee's job; or
- (10) who:
  - (A) is employed by Fire and Rescue Services in the firefighter/rescuer occupational series;
  - (B) was hired after June 30, 1999; and
  - (C) used a tobacco product on or off duty.
- (b) Under subsection (a)(2) above, an employee has not abandoned the employee's position if the employee was:
  - (1) physically or mentally unable to obtain approval for the absence; or
  - (2) unable to report for work for reasons beyond the employee's control.

**29-3. Management responsibility for termination.**

- (a) Before a department director terminates the employment of an employee with merit system status for the reason described in Section 29-2(a)(6) (failure to perform assigned duties in a satisfactory manner) or Section 29-2(a)(7) (failure to return to work within 30 calendar days of exhausting all paid leave), the director must:
  - (1) give the employee advance written notice of the problem;
  - (2) counsel the employee on corrective action to take; and
  - (3) allow the employee adequate time to improve or correct the employee's performance or attendance.
- (b) A department director must not terminate a qualified employee with a physical or mental disability under 29-2(a)(9) above unless efforts at reasonable accommodation as described in Section 8 of these Regulations are unsuccessful.

**29-4. Notice of proposed termination and notice of termination for employees with merit system status.**

- (a) **Notice of proposed termination.** A department director must give an employee with merit system status a written notice of proposed termination that includes:
  - (1) the reason for termination;
  - (2) that the employee may submit a written response to the proposed termination;
  - (3) the person to whom the employee may submit a response; and
  - (4) that the employee's response must be filed within 10 working days of the employee's receipt of the notice.
- (b) **Notice of termination.** If a department director decides to terminate an employee with merit system status, the department director must give the employee a written notice of termination and include the following in the notice:
  - (1) the effective date of the termination;
  - (2) the reason for the termination;
  - (3) that the employee did or did not respond to the notice of proposed termination and, if the employee responded, whether the response, influenced the termination decision;
  - (4) if the employee may file a grievance or MSPB appeal; and
  - (5) the deadline for filing a grievance or an appeal.

**29-5. Notice of termination for probationary and temporary employees.** Before terminating the employment of a probationary or temporary employee, a department director must give the employee a written notice that states the effective date of the termination and the reason for the termination.

**29-6. Effective date of termination.**

- (a) A department director may make the termination of a probationary or temporary employee effective immediately.

- (b) A department director must issue a notice of termination to an employee with merit system status at least 5 working days before the effective date of the proposed termination.

### 29-7. Appeal of termination.

- (a) An employee with merit system status who is terminated may appeal the termination under Section 34 or 35, unless the employee is a term employee:
- (1) whose term of employment has expired; or
  - (2) who has completed the work the employee was employed to perform.
- (b) A term employee may appeal a termination under Section 34 or 35 unless it is a termination described in (a)(1) or (2) above.
- (c) A probationary or temporary employee may not appeal a termination.

**Editor's note** – The subjects covered in this section of the Personnel Regulations are addressed for bargaining unit employees in the current collective bargaining agreements as indicated below:

| Bargaining unit     | Articles of current agreements with references to termination   |
|---------------------|---|
| Firefighter/Rescuer | 23, Hours of Work<br>40, Employee Status<br>51, Pensions  |
| OPT/SLT             | 4, Voluntary Checkoff of Union Fees and Deductions<br>5, Wages, Salary and Employee Compensation<br>16, Leave Without Pay<br>26, Termination<br>27, Reduction-in-Force<br>30, Notices to Employees<br>44, Defined Contribution Plan |
| Police              | 3, Agency Shop and Dues Checkoff<br>15, Hours and Working Conditions<br>43, Discipline<br>52, Termination   |